IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

Con.Case(C).No. 953 of 2007(S)

AGAINST THE JUDGEMENT/ORDER IN OP.38515/2002 Dated 19/12/2002

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PETITIONER/PETITIONER

K.K.HARIKUMAR, THAVINHAL KRISHI BHAVAN,
WAYNAD DIST, S/O.KRISHNAN NAIR,
KOCHUPARAMBIL VEEDU.

BY ADV. SRI.C.K.SREEJITH

RESPONDENTS/RESPONDENTS 4 & 3:

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1. ASHOK KUMAR, S/O.NOT KNOWN, AGED NOT KNOWN, THE PRINCIPAL AGRICULTURE OFFICER, OFFICE OF THE DISTRICT AGRICULTURE. KALPETTA, WAYANAD.

2. MAGGIE, W/O.NOT KNOWN, AGED NOT KNOWN, SECRETARY TO GOVERNMENT, FINANCE DEPARTMENT,SECRETARIAT, TRIVANDRUM.

BY GOVERNMENT PLEADER SRI.P. NANDAKUMAR

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING BEEN FINALLY HEARD ON 19/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

Contempt Case (Civil) No.953 of 2007-S

Dated this the 19th day of July, 2007.

J U D G M E N T

The petitioner has approached this court, alleging that the direction of this court in Annexure A-I judgment is not obeyed by the respondents. The direction issued by this court in Annexure A-I judgment reads as follows:

> "O.P. is disposed of directing the various respondents under whom the respective petitioners are working to sanction and disburse the pay and allowances due to the petitioners at the rates provided in Ext.P1 within two months from the date of receipt of a copy of this judgment."

2. At the relevant time, the part time sweepers were held to be entitled to wages at the rate applicable to regular employees. The direction in Annexure-A-I was issued in tune with the said settled legal position at the relevant time. Subsequently, the Government have issued orders permitting regularization of part time casual sweepers, by creation of posts, wherever permissible. The Government Order concerned also permitted payment of salary to such persons, at the rate applicable to regular part time sweepers. This Contempt Case (Civil) is filed by the petitioner, alleging that he is not regularised and the back wages are not disbursed. The said claim is beyond the scope of Annexure A-I judgment.

2. The first respondent has filed a counter affidavit in which it is submitted as follows:

> 3. It is submitted that the petitioner Sri.K.K. Harikumar is a Part Time Casual Sweeper at Thavinhal Krishibhavan with effect from 01-12-1987. The petitioner was engaged locally by the then Agricultural Officer of the said Krishibhavan. The Hon'ble High Court in its judgment dated 19-11-2003 in R.P.692/03 in O.P.38515/02 has drawn distinction between places where the areas to be swept are below 100 Sq.Mtr. and more than 100 Sq.Mter. ie., those petitioners sweeping more than 100 Sq.Mtr. have to be given the enhanced wages and those petitioners sweeping below 100 Sq.Mtr. have to be paid Rs.600/-. The area to the (sic be) swept by the petitioner, Sri.K.K. Harikumar was calculated as 41.74 Sq.Mtr. only, according to the space norms existing then. Hence he has been paid a consolidated remuneration of Rs.600/-. Subsequently as per G.O.(P) 501/2005/Fin.dated 25-11-2005 the norms for the calculation of area to be swept has formulated by the Government and accordingly the same is calculated as 105.13 M2 by the competent authority (Assistant Engineer, P.W.D Buildings Division, Section No.11, Mananthavady). As directed in the G.O. (P) No.501/2005/Fin. dated 25-11-2005, required proposal for creating the post has been forwarded to the Government. But till date no orders regarding the creation or regularization has been received from the Government.
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> 4. It is submitted that as per para 8 of the G.O.(P) No.501.2005/Fin. dated 25-11-2005, it was specified that for the regularization of the existing casual sweepers (where the sweeping

area exceeds 100 Sq.Mtrs) creating of posts of Part Time Contingent Employees depending on the sweeping area has to be made. Accordingly sweeping area to be swept has been calculated based on the said G.O. and proposal for creating/regularization of the post has been sent to the Director of Agriculture, Thiruvananthapuram.

5. It is submitted that as and when the orders regarding the regularization of post is received from the Government/Director of Agriculture, Thiruvananthapuram, the payment will be effected immediately."

The above submission is recorded and the Contempt Case (Civil) is closed. The wages at the rate of Rs.600/- per month is being regularly paid to the petitioner, it is submitted. This submission is also recorded.

K.BALAKRISHNAN NAIR,
JUDGE.

MS